

INITIAL STATEMENT OF REASONS

AB 3056 Handling Fee Regulations

CALIFORNIA CODE OF REGULATIONS
TITLE 14. NATURAL RESOURCES
DIVISION 2. DEPARTMENT OF CONSERVATION
CHAPTER 5. DIVISION OF RECYCLING

The recent passage of AB 3056 (Chapter 907, Statutes of 2006) changed the process for determining how handling fees are calculated for eligible recycling centers. In order to avoid future shortfalls in handling fee payments, AB 3056 provides for a gradual increase in the handling fee appropriation and a cost survey to determine handling fees to be paid on and after July 1, 2008. This bill authorizes the Department of Conservation (Department) to expend up to \$31 million from 7/1/05 to 6/30/06, \$33 million from 7/1/06 to 6/30/07, and \$35 million from 7/1/07 to 6/30/08 for handling fee payments. Effective 7/1/08, there will not be a monthly or annual cap on handling fee payments. To comply with and implement provisions of AB 3056, the Department adopted emergency regulations on February 5, 2007. The emergency regulations were necessary in order to ensure that the cost survey criteria were in place prior to the surveys being started in early 2007. These proposed regulations will make the emergency regulations permanent, enabling the Division of Recycling (Division) to conduct ongoing cost surveys and compare the costs of non-handling fee sites with the costs of handling fee sites.

AB 3056 authorizes the Division to conduct a cost survey of handling fee sites during 2007, and every two years thereafter. This cost survey will be in conjunction with the cost survey performed by the Division to determine processing payments and processing fees. Handling fee site costs will be compared with the costs of non-handling fee sites. The handling fee will be calculated by subtracting the non-handling fee site costs from the handling fee site costs. This calculation will be used to determine the handling fee payments on and after July 1, 2008.

Subchapter 2. General Requirements

Article 5. Administrative Actions

§ 2125. INSPECTION AUTHORITY

Subsection 2125 (a) (5) has been amended to add Public Resources Code Section 14585 which gives the Division the authority to obtain allowable cost survey data from certified recycling centers.

Section 14536 (b) has been added to the Authority Section of Section 2125 to cite the Division's authority to adopt emergency regulations to implement Section 14585 of the California Beverage Container Recycling and Litter Reduction Act (Act).

Section 14585 has been added to the Reference Section of Section 2125 to give the Division the authority to collect Handling Fee Cost Survey data from certified recycling centers.

Subchapter 6. Recycling Centers

Article 2. Handling Fees

Subsection 2518 (a) (1) has been amended to delete (a)(3) and add (e) to reference the appropriate subsection of Section 14585 to allow the Department to utilize a standard container per pound rate for each material type to calculate handling fee payments.

Subsection 2518 (a) (2) has been amended to add (A) to Section 14585(a) (2) because (A) was added to Section 14585 (a)(2) in AB 3056.

Subsections 2518 (a) (4) (A) and (B) have been deleted because these sections are no longer necessary. Section 14585 (a)(5) (A) of the Act was revised in AB 3056 to state the amount of the handling fee per eligible container until June 30, 2008. Section 14585 (a) (6) (A) of the Act states the handling fee payment cannot be more than \$2,300 per month. Thus, it is redundant to also have Sections 2518 (a) (4) (A) and (B) of the regulations state the amount of the handling fee payment. New Section 14585 (a) (5) (B) states that on and after July 1, 2008, the department shall pay a handling fee per eligible container in the amount determined pursuant to subdivision (f). Section 14585 (f) of the Act is a new subsection and it describes how the handling fee cost survey will be conducted.

New Subsection 2518 (a) (4) has been added because AB 3056 requires the Department to pay a handling fee per eligible container as determined by the handling fee cost survey required in Section 14585 (f) of the Act.

Subchapter 12. DOR Requirements

Article 3. Handling Fee Payments

Article 3. Handling Fee Payments has been added to Subchapter 12. because AB3056 requires the Department to conduct a cost survey in 2007, and every

two years thereafter, to determine future handling fee payments beginning with the payments for the 2008/2009 fiscal year.

New Section 2990. Allowable Costs for Handling Fee Recycling Centers has been added to the regulations. AB 3056 added Section 14585 (f) (1) of the Act. Section 14585 (f) (1) requires the Department to include only those allowable costs contained in the regulations adopted by the Department to conduct cost surveys pursuant to Subdivision (b) of Section 14575. Thus, the costs in new Section 2990 are the same as the costs in Section 2960 Allowable Costs for Recycling Centers and Section 2965 Allowable Costs for Processors.

Section 14536 (b) has been included in the Authority Section of Section 2990 to cite the Division's authority to adopt emergency regulations to implement Section 14585 of the Act.

New Section 2995. Allocation of Allowable Costs for Handling Fee Sites has been added to the regulations. This section has been added to the regulations because AB 3056 requires the Department to use only those allowable costs currently authorized by statute and defined in Sections 2960 and 2965 for recycling centers and processors. This new section is necessary to mirror Section 2970 for the cost surveys conducted pursuant to Section 14575 (b) of the Act.

Section 14536 (b) has been included in the Authority Section of Section 2995 to cite the Division's authority to adopt emergency regulations to implement Section 14585 of the Act.

New Section 2997. Notification of Handling Fee Changes has been added to the regulations. This section has been added to the regulations because AB 3056 requires the Department to calculate the handling fee payment by using cost surveys in conjunction with the cost surveys performed by the Department to determine processing payments and processing fees. Thus, the Department will give notice of handling fee changes to interested persons 15 days before the effective date of the change. The Department provides written notice of revised, terminated or newly established processing fee and processing payments to all interested persons at least 15 days prior to the effective date of the proposed change.

Section 14536 (b) has been included in the Authority Section of Section 2997 to cite the Division's authority to adopt emergency regulations to implement Section 14585 of the Act.